DETAILED ACTION

Claim Objections

The Examiner stated that claim 27 is objected to because of the following informalities: claim 27 should be depended on claim 26, not claim 16. Applicant has amended claim 27 to be dependent on claim 26. Please remove this objection.

The Examiner stated that claims 2-19 are objected to because of the following informalities: claims 2-19, line 1 of the preamble, recite the limitation "the script compliance", which is different from preamble of independent claim 1. Applicant has amended claims 2-19 so that the preamble recites the limitations as set forth in claim 1. Kindly remove these objections.

Claim Rejections – 35 USC § 103

The Examiner stated that claims 1-5, 7-10, 12, 16-24, 26-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., (US Patent 6,567,787).

The Examiner stated that claims 6, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., (US Patent 6,567,787), in view of Surace et al. (US Patent 6,144,938).

The Examiner stated that claims 11, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., (US Patent 6,567,787), in view of Avi (US Patent 5,666,157).

In regard to claims 1, 23, 48 and 49, as stated in the previous Office Action dated February 2, 2008, the Examiner states that "generating operator performance measurements and calculating a percentage of times the verbal message was spoken properly implies determining whether an agent has adequately followed a script based on a plurality of first scores related to respective portions of the at least one voice interaction and based on a second score related to an overall compliance with the at least one voice interaction, since a performance measurement is generated for each stored audio signal."

As stated earlier, Applicant respectfully disagrees as Walker is silent on providing second scores related to an overall compliance with the at least one voice interaction and does not

suggest that such a second score could be determined. Further, Walker discloses speaking a verbal prompt and *not* reading a script.

Moreover, ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art as whole MPEP §2142.02. Distilling the invention down to a gist or to a thrust of the invention disregards the "as a whole" requirement. MPEP §2142.02. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F 2d 1540, 220 USPQ 303 (Fed Cir. 1983) *cert. denied,* 469 U.S. 851 (1984) (restricting consideration of the claims to 10% per second rate of stretching of unsintered PTFE and disregarding other limitations resulted in treating claims as though they read differently than allowed). The Examiner has disregarded the limitation of *"reading a script based on a plurality of first scores related to respective portions of the at least one voice interaction and based on a second score related to an overall compliance with the at least one voice interaction"* The Examiner states that Walker does NOT explicitly teach this limitation, however, Walker teaches determining whether the audio signal satisfies a predetermined criterion and that one having ordinary skill at the time of the invention was made to use a confidence level threshold relating to the automatic speech recognition on walker because that would help the determine whether the operator spoke the prompt properly.

The Examiner has distilled the invention down to gist or thrust of the invention, without looking to the invention as a whole. For example, claim 1 requires that "*determining whether the at least one agent has adequately followed, based on the confidence-level threshold relating to the automatic speech recognition component's ability to analyze the at least one voice interaction, the at least one script based on a plurality of first scores related to respective portions of the at least one voice interaction and based on a second score related to an overall compliance with the at least one voice interaction, wherein at least one of the first scores and the second score are different for their respective portions of the at least one voice interaction*" In reading Applicant's application, the confidence level threshold and the interaction between the determining of the overall score of with respect to compliance by an agent is disclosed. In no portion of Walker is this disclosed.

In fact, Walker teaches away from this in Col. 7, lines 61-65, stating "[t]he POS terminal provided in accordance with the present invention may also be used to record and determine what words were spoken by other parties such as customers. Such words and phrases may be stored and analyzed to extract desirable information therefrom." A prior art reference must be considered in its entirety including portions that would lead away from the from the claim invention. MPEP §2142.02. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F 2d 1540, 220 USPQ 303 (Fed Cir. 1983) *cert. denied,* 469 U.S. 851 (1984). This argument was not presented previously because the rejection was based on 35 U.S.C. 102 (e).

However, purely in the interest of expediting the prosecution of the instant application, Applicant has amended claims 1, 23, 48 and 49 to substantially include the following limitations:

evaluating the at least one voice interaction with an ~~at least one~~ automatic speech recognition component, having a confidence level threshold including supplying audio files in real time of at least one voice interaction to the automatic speech recognition component and/or recording the at least one voice interaction and later supplying the files to the automatic speech recognition component, adapted to analyze the at least one voice interaction; and

determining whether the at least one agent has adequately followed, based on ~~a~~ the confidence-level threshold relating to the automatic speech recognition component's ability to analyze the at least one voice interaction, the at least one script based on a plurality of first scores related to respective portions of the at least one voice interaction and based on a second score related to an overall compliance with the at least one voice interaction, wherein at least one of the first scores and the second score are different for their respective portions of the at least one voice interaction.

Support for these limitations can be found at least on p. 3, 13 and 15 of the instant application.

The Examiner rejected claims 33, 50, and 51 based on Walker col. 14, l. 59-65 and col. 15, l. 6-7. The Examiner states that Walker's POS terminal may measure the number of completed transactions per period of time, the number of items purchased through the POS terminal per period of time. However, again the Examiner has distilled the invention down to

gist or thrust of the invention, without looking to the invention as a whole. MPEP §2142.02. The section cited by the Examiner states that "the POS terminal then receives a survey response from the customer. The survey response may be entered via a keypad or on the POS terminal. Alternately, the *customer* (emphasis added) may speak his response or the operator may repeat the customer's response, into one of the microphones. … If there are not any more survey questions to be answered, the cash drawer actuator is enabled to allow the cash drawer to open". Walker DOES NOT teach comparing a plurality of duration parameters to the actual duration of ONE PARAMETER. This statement falls into the category of distilling the invention to a "gist" or "thrust" of the invention and disregarding the "as a whole" requirement. MPEP §2142.02. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F 2d 1540, 220 USPQ 303 (Fed Cir. 1983) *cert. denied,* 469 U.S. 851 (1984).

Moreover, this portion of the prior art of Walker's invention teaches away from Applicant's invention. Applicant's claims 33, 50, and 51 state "*comparing the actual duration of the given one interaction to the expected duration parameter and comparing a plurality of duration parameters to respective portions of the actual duration of the given one interaction.*" The statement as supplied by the Examiner as prior art to these claims teaches away from Applicant's invention by adding in a customer survey, in fact this entire section pertains to a customer survey, NOT the duration of the POS transaction and certainly NOT to comparing a plurality of duration parameters to respective portions of the actual duration of the given one interaction. There is no language to support this, nor is it inherent in the disclosure. It is a stretch by the Examiner to make this reference fit when it is actually teaching something entirely different from Applicants' invention as a whole. MPEP §2142.02. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F 2d 1540, 220 USPQ 303 (Fed Cir. 1983) *cert. denied,* 469 U.S. 851 (1984).

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has amended claims 33, 50 and 51 to substantially include the following limitations: means for obtaining data representing at least one expected duration parameter evaluated by an automatic recognition component having a log record module that is applicable to at least the given one of the interactions, which are not taught or suggested by Walker.

For the reasons set forth above, Applicant believes the independent claims, as well as the claims that depend from them, are in condition for allowance and respectfully requests they be passed to allowance.

Respectfully submitted,

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